# IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 8 OF 2007

IN

MISC.CIVIL APPLICATION NO. 130 OF 2006

M/S. RAJ BUILDERS THROUGH ITS PROPRIETOR ....Applicant

Versus

SHRI. LAXMAN VISHRAM KANDOLKAR AND ANR., ....Respondents

Mr. Shivan Desai for the Appplicants.

Mr. V.A. Lawande, for R.1.

Coram:- S.A.BOBDE, J.

Date:- 7th March, 2007

P.C.:

The learned counsel for the review petitioner submits that the Order dated 6th September, 2006 passed by this Court, condoning the delay in filing Cross Objections by the respondent is wrong. According to the learned counsel for the petitioner the learned Judge while condoning the delay, has wrongly referred to Order 41, rule 53 (sic).

The learned counsel for the respondents submits that rule 53 has wrongly been typed and should be read as rule 33. It appears that the learned counsel for the respondents is right. On a reading of the entire order, I find that the learned Judge has condoned the delay, having regard to the facts of the case and the grounds raised by the respondents. The learned Judge has further referred to Order 41, rule 33 in order to support the view that such delay was liable to be condoned, because under that

provision even otherwise the respondents were entitled to oppose the Judgment of the trial Court even though they may not have filed an appeal.

It is of no avail to the review petitioner to contend that in fact, in the present case the respondents would not be entitled to oppose the Judgment and decree of the trial Court without filing an appeal. It appears that reference was made by the learned Judge to O.41, R.33 only in order to point out that the law enables a respondent in appeal to seek a further decree or order, as the interest of justice may require, and the Court is entitled to pass such orders and decrees even without a cross-appeal.

No ground for review is made out. The Review Petition is rejected.

S.A.BOBDE, J.

sl.